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# Washington Tariff & Trade Letter®

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## Encrypted Data in Cloud Shouldn't Be Controlled, DTAG Advises

State's Defense Trade Advisory Group (DTAG) is trying to bring some regulatory clarity to cloud computing, a new phenomenon that is not directly addressed yet in the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR). At its May 9 meeting, the DTAG adopted the recommendations of a working group that proposed amending the ITAR to exclude from the definition of controlled technical data information that goes into the cloud as long as it is encrypted and no unauthorized party has access to the data.

The working group noted a paper issued by the National Institute of Standards and Technology (NIST) on cloud computing, which described the operation of the cloud, how data are transferred among different servers in different countries and the various modes of access to data on the cloud. Users usually don't know where the servers are or if they are in countries subject to controls.

The DTAG wants ITAR Section 120.10 to clearly exempt from controls unclassified electronic data that are exported to the cloud for storage only as long as the information is encrypted into cipher text, which is unreadable and useable unless decrypted, and where how to access the data is not disseminated. Data in the cloud would not be considered an export as long as it remained encrypted. DTAG also recommended that State and Commerce align their rules to a common encryption standard, which should be developed for data going into the cloud. One DTAG member said many large firms probably will not use the cloud, while smaller companies might not have the technology or money to use it. That would be another screen to the cloud's use, he suggested.

## Marantis Leaving USTR to Join San Francisco Tech Firm

Acting U.S. Trade Representative (USTR) Demetrios Marantis will be leaving his post by the end of May to join Square, a San Francisco-based technology startup firm, and head its international government, regulatory and policy work, the company announced May 8. Marantis, who has enjoyed favorable relations with the business community, members of Congress and foreign counterparts, had been deputy USTR since 2009 and became acting USTR when Ambassador Ron Kirk left the job in March. His departure will leave a big

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hole that Mike Froman, whom President Obama nominated May 7 for the trade post, will have to fill early in his tenure (see **WTTL**, May 6, page 1). Before becoming deputy USTR, Marantis served as chief international trade counsel for the Senate Finance Committee, which explains the warm reception he has received when he has testified before the panel. In 2004 he was issues director on the Kerry-Edwards campaign. Prior to that Marantis worked in Hanoi as chief legal advisor for the U.S.-Vietnam Trade Council. Between 1998 and 2002, he served as USTR associate general counsel. He also was an attorney in the Washington and Brussels offices of Akin, Gump, Strauss, Hauer & Feld.

“Demetrios’ invaluable experience will help Square provide powerful business tools to local entrepreneurs around the world,” said Jack Dorsey, Square’s co-founder and CEO, in a statement. Square, founded in 2009, provides credit card readers for smartphones and tablets, as well as software and hardware for businesses to allow customers to pay with their phones.

## **Ties to Developing Countries Propel Azevedo to WTO Post**

Brazilian diplomat Roberto de Azevedo won the contest to become the next director-general of the World Trade Organization (WTO) May 7 because of his affinity with developing countries and his ties to trade blocs that have questioned pure market policies and challenged the agriculture export subsidies of developed countries, sources in Geneva contend. Azevedo beat out former Mexican Trade Minister Herminio Blanco in the race to take the helm of the organization later this year (see **WTTL**, May 6, page 2).

Whatever their positions were during the closed-door jockeying over the next WTO chief, both the U.S. and European Union (EU) said they backed Azevedo’s selection after it was decided. “The United States is pleased to join the consensus decision that has selected Roberto Azevedo as the next Director-General of the WTO, and we look forward to working with him and with our fellow members for a robust, relevant, and productive organization in the years to come,” said Acting USTR Demetrios Marantis in a statement.

Azevedo was elected for two reasons, a former European ambassador to the WTO told **WTTL**. One reason was because developing countries thought Azevedo had much more of a feeling for them, he said. The other was because some countries thought Blanco was much more closely aligned philosophically with bigger countries. Blanco, who was educated in the U.S. and negotiated NAFTA for Mexico, was seen as too close to the U.S. The former official said he was happy Azevedo was selected but thought Blanco would have been better for the organization.

Azevedo, not Blanco, is considered very responsive to poor countries, the former ambassador said. He said Blanco didn’t win points when he recently asserted his analytical prowess was based in part on his Ph.D from the University of Chicago. “Chicago boys aren’t considered as particularly sensitive people to developing countries’ interests.”

Azevedo was seen as more in tune with the problems of developing countries, the ambassador said. He acknowledged, however, that it’s hard to know why some countries vote the way they do. One least developed country had said it preferred one candidate because their countries share a history of mountaineering, he said. Azevedo helped evolve what became known as the G-20 group of developing countries into an accepted

player in international trade talks, Manuel Teehankee, a former Philippine ambassador to the WTO, told WTTL. Brazil's alliances in the G-20, the G-90 of least developing countries and the Cairns Groups of agriculture-exporting countries were major factors in developing bridges, Teehankee asserted.

The G-20 has pursued development without a pure free-market approach, which since 2008, has been seriously questioned, he said. People who may have been wary of open markets may have backed Azevedo because they believe Brazil "hasn't been a sissy" and laid down and let the U.S. walk over it, another trade official suggested.

Near unanimous European support for Blanco also was an ominous sign, the former European ambassador said. Support by Europe, combined with presumptive U.S. support, pointed to a race defined by north against south, he said: "That would have been very bad." Blanco's selection would have been viewed as the north imposing its view on the south and likely would have created a bad climate, he said.

People in the WTO corridors have been suggesting that Azevedo is more of a free trader than some of his more political compatriots in Brazil. They say Latin American countries have waited their turn to head the organization. Azevedo knows the system "inside and out and is dedicated to the mission of the WTO," one executive asserted. But neither Azevedo's insider status nor Blanco's outsider status appears to have been a major factor in the selection process. However, another trade official with more than 20 years experience dealing with the WTO said it's amazing how sometimes the opposition can sometimes create more change than someone who everyone assumes and dismisses as a free trader. She referred to President Nixon, a conservative, and his trip to China, and President Johnson, a southerner, who introduced civil rights legislation.

## **Doha Is Number One Priority, Azevedo Says after Selection**

In his first press conference after being selected to be the next director-general of the World Trade Organization (WTO), Brazilian Ambassador Roberto Azevedo said, "The Doha Round is my number one priority." Although he offered no specific plan for achieving that goal, he told reporters May 9 that a "solution" to the round would help buttress the flagging multilateral trading system. Azevedo said the WTO is in a "very critical stage" and its negotiating pillar is "completely stuck." There is a "clear paralysis" in the system, he said. "Solving" the round would move the WTO "away from this paralysis," he declared (see related story, page 2).

While the selection process for the next WTO chief is completed, Azevedo won't be formally named director-general until a May 14 meeting of the WTO General Council. He will take over from current Director-General Pascal Lamy in September. Although different candidates drew member support during the process, in the end, Azevedo said, he was backed by all 158 WTO members. "Otherwise, we'd be at an impasse," he said. Azevedo said countries are "on the verge of losing a very valuable system."

Either the foundation for building regional and bilateral agreements is updated "or the world will move on and the WTO will be left behind," he said. Talks now should not be "about getting what we want" but "saving what we have," he added. "The only way to do it is to look forward," Azevedo told reporters. Because Doha has been stuck for

several years, there hasn't been a discussion on what should be discussed, he said. The WTO agenda has to "broaden" and other issues assessed, Azevedo said. "We're not doing that," he said; adding, "That's extremely worrisome." The situation needs to change as quickly as it can, he argued. A "move" in negotiations is the best way to "ensure" that the issues are addressed, Azevedo said. He noted that separate talks on exchange rates are taking place in a WTO working group and members have also suggested discussions on climate change, energy, investments and other issues.

Azevedo pointed to the Bali ministerial in December as a possible "a first step" towards "rescuing" the system. He said trade officials must do their very best to ensure that the Bali ministerial delivers "significant, substantive outcomes" and instills a sense of confidence in WTO negotiations. One minute can't be lost, he said. "I am an optimist, but caution is needed" to ensure preparatory work moves forward in a timely manner, he said. If Bali isn't successful, the road ahead would be "more difficult," he warned.

### **Advisors Recommend Change in "Fundamental Research" Rules**

ITAR's "fundamental research" definition should be revised to clarify the different types of research that might fall under its exemption and to eliminate conditions that now exclude some research from the rule, State's Defense Trade Advisory Group (DTAG) recommended May 9. Based on a proposal from a DTAG working group, the advisors agreed that research that is proprietary should not be automatically excluded from the fundamental research definition, and fundamental research should not be restricted only to "accredited institutions of higher learning."

The DTAG recommendation would revise the definition in ITAR Section 120.11 under the heading of "public domain" and would add new sections more clearly defining the distinctions between basic research, applied research, fundamental research and restricted research. An expanded section on restricted research would say the fundamental research exemption would not apply to government-funded research with specific controls and restrictions on dissemination and access.

This new section would eliminate the current exclusion of proprietary research. Members of the working group said the fact that research is proprietary is a contractual issue and should not determine whether the research is subject to export controls. In addition, the mere fact that research is subject to prepublication review for non-export control reasons or for compliance with other non-export controls rules should not cause it to be excluded from fundamental research. In addition, reviews for trade secrets or patent information should not determine export controls.

The working group suggested that both the ITAR and Export Administration Regulations (EAR) should have common definitions of fundamental research. It did a side-by-side comparison of the two regulations and found wide areas where the rules either diverge or don't have comparable provisions. It also noted that universities and industry view fundamental research differently, which makes collaboration difficult. It found that the Bureau of Industry and Security (BIS) has issued extensive advice in its frequently asked questions (FAQ) on fundamental research, while State is almost silent. It urged the agencies to issue harmonized guidance on the issue.

## Hochberg Faces Few Tough Questions at Renomination Hearing

The sharp criticism that stymied renewal of the Export-Import Bank (Ex-Im) charter last year didn't surface during the Senate Banking Committee's May 7 hearing on the renomination of Fred Hochberg for another term as bank chairman and president. Hochberg easily fielded softball questions from Sen. Mike Crapo (R-Idaho) about criticism Ex-Im has received as providing a form of corporate welfare or hurting U.S. companies by backing exports of competing firms, a topic that Delta Airlines has sued the bank over.

Instead of criticism, Hochberg was greeted with a love fest from members who praised the bank for holding seminars for small exporters in their states, including in Ohio, Massachusetts, Virginia and South Dakota.

On the corporate welfare complaint, Hochberg said the bank doesn't lend to U.S. companies, but rather to their foreign customers. When U.S. exporters compete with firms from Germany, China, Korea or India, their foreign competition gets support from their governments, he noted. "We cannot unilaterally disarm by not making sure American companies and American jobs [have our support], if they need our financing to close a deal," he argued (see **WTTL**, April 8, page 1).

U.S. firms don't always need Ex-Im support, but when they go toe-to-toe with foreign competitors with government-backed aid, "we need to make sure they have it," he added. Hochberg also defended the bank's economic impact procedures for making sure its financing doesn't hurt other U.S. companies. "We're all about U.S. jobs. We don't want to do anything that hurts U.S. jobs," he testified.

Hochberg also claimed Ex-Im's reserves are adequate to prevent any cost to U.S. taxpayers from loan defaults. He noted that its current default rate is less than one-third of one percent, while it holds reserves that are 2.5% of its outstanding portfolio. Hochberg also said Ex-Im is implementing the recommendations of a Government Accountability Office (GAO) report that said the bank needed to revise its risk-assessment methodology to consider the large jump in the volume of its export financing in the last four years.

## Sen. Warren Criticizes Trade Deals, Warns about New Talks

As President Obama was holding talks with Korean President Park Guen-Hye May 7 aimed at strengthening bilateral ties, freshman Sen. Elizabeth Warren (D-Mass.) used a Senate Banking Committee hearing the same day to criticize the U.S.-Korea Free Trade Agreement (KORUS) and to raise concerns about the inclusion of financial services in new trade talks with Asia and Europe.

Warren's strong negative views on trade deals could make her a key factor in congressional consideration of any final Trans-Pacific Partnership (TPP) deal or Transatlantic Trade and Investment Partnership (TTIP). At the hearing on the renomination of Fred Hochberg to be chairman and president of the Export-Import Bank (Ex-Im), Warren noted the promises made about how KORUS would increase U.S. exports. "I'm sure you've noticed, though, that the facts have not worked out so clearly," she said. Warren cited bilateral trade figures since the accord went into effect in March 2012. She noted that U.S. imports since then have grown 5% globally but 17% from Korea, while exports went up globally 11% but fell 5% to Korea. "The trend in trading patterns is alarming,"

she said. Although the overall U.S. trade deficit has declined 5% in that time, “it has increased a staggering 170% with Korea,” Warren said. Hochberg said Ex-Im does not do much financing for exports to Korea except for commercial aircraft and renewable energy projects, particularly solar panels.

Warren also raised concerns that financial services might be covered by a TPP or TTIP. “There have been some troubling indications that the big banks see the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership as opportunities to weaken financial regulations – a chance for the banks to get something done quietly, out of sight, that they could not accomplish in a public place, without cameras rolling and the lights out,” she said.

## Export Controls Aren't Keeping up with Technology, ISTAC Told

Export controls will always be behind the curve, because product development doesn't proceed along a linear chart and responds to ever-increasing market demands, two members of the Bureau of Industry and Security's (BIS) Information Systems Technical Advisory Committee (ISTAC) argued May 7. This is particularly a problem in the field of digital technology, they told the panel.

David Lindsay, technology compliance manager at Intel, and Mark Renfeld, technology export compliance manager at Hewlett Packard, said current controls under Export Control Classification Number (ECCN) 5E001.c.1, which covers technology supporting “equipment employing digital techniques designed to operate at a ‘total digital transfer rate’ exceeding 120 Gbit/s, haven't kept up with the current industry applications.

At a conference in March, products reaching 300 Gbit/s were either “demoed or out on the street,” Lindsay noted. “Why did we set the threshold way below current products?” he asked. The Institute of Electrical and Electronics Engineers has decided to develop a standard of 400 Gbits/second, he reported. In the current environment, market demand comes first, then non-standard development, then standards and finally export regulations, Renfeld said. “We may need to rethink that,” he added. In response to the increasing transfer speeds, Renfeld suggested three options to act: wait to act, recognize that 400 Gbits is already or almost in the public discourse, or perhaps a bigger question, with such exponential growth, should it be controlled at all?

## Business Community Presses for Transatlantic Trade Deal

Companies on both sides of the Atlantic are pressing their governments to move quickly on a broad Transatlantic Trade and Investment Partnership (TTIP) that covers not only tariffs and nontariff barriers but also regulations. Despite past trade disputes between the U.S. and European Union (EU), “the circumstances are very different this time,” said Hans Straberg, director of Sweden's Investor AB and co-chair of the Transatlantic Business Council (TBC). After two days of meetings in Washington with Obama administration officials and business groups, Straberg told reporters May 7 he has “found strong political will” for the TTIP. The TBC is coordinating the work of eight industry working groups that are preparing lists of topics, including regulatory issues, that should

be addressed in the coming talks. The groups are looking at issues involving life sciences, investment, innovation, intellectual property rights, information and communications technology, energy, worker skills and climate (see **WTTL**, April 22, page 5).

For companies that have not been active in this process, “now is the time to be active,” Straberg said. While having a positive view on the coming talks, he acknowledged that “it won’t be without snags and hard work.” He also dismissed statements by those who are trying to keep some issues off the table in the negotiations. “Both sides have issues, red lines,” he conceded. “It is unfortunate to bring this up at this stage,” he added. Some of these comments are “unfortunate posturing for local consumption.”

In particular, with regard to financial services, he said he believes there has been no decision on how they would be treated in negotiations. Tim Bennett, TBC director-general, said Treasury has wanted market access for financial services to be included but has not been clear about financial regulation. There would be “no reason to keep it on the table” if it wasn’t going to be part of an agreement, he noted.

## **Australia Defense Trade Treaty Set to Go into Effect**

The U.S.-Australia Defense Trade Treaty, which was signed in 2007, will finally go into effect the week of May 13 following the exchange of notes expected to take place in Canberra, Australia, between U.S. and Australian officials during the week, according to Deputy Assistant Secretary of State for Defense Trade Controls Beth McCormick. President Obama signed the instrument of ratification during the week of April 29, she told the Defense Trade Advisory Group (DTAG) May 9. Final implementing regulations were published in the Federal Register April 11, and another notice will be published to insert the effective date.

McCormick acknowledged industry concerns about complexity of the Australia treaty, as well as the similar defense treaty with the United Kingdom, and the perception that it is easier to get a regular export licences from the Directorate of Defense Trade Controls (DDTC) than to use the treaty exemption. She said part of the problem has been how long it has taken to put the treaties into effect. “We had a slow start,” she said.

Rather than helping defense firms export under current programs, the treaty is likely to be more useful for new programs, she said. “We think it will be particularly helpful where companies in both countries will be able to bid on government solicitations on United States government programs,” McCormick said. “I think it is going to be very important and useful for new programs; not so much for existing programs,” she told the DTAG. Because DDTC has cut average processing time to 18 days, it might seem quicker to get a license, she noted.

“People are very accustomed with the system and to the extent they already have authorizations in place, they will probably use that,” she said. She said it will take an education process to get the word out to industry about the benefits of the treaties. “As larger prime contractors here in the United States start to use the treaty, their subcontractors and subsidiaries that are definitely part of the global supply chain will also become part of it,” McCormick said.

## U.S. Seeks Labor Consultations with Bahrain under FTA

The U.S. requested consultations with Bahrain May 7 under the labor chapter of the U.S.-Bahrain Free Trade Agreement (FTA), after a Labor Department report found “deterioration in the labor rights environment” in that country. The AFL-CIO originally filed a complaint in April 2011, alleging that Bahrain had acted inconsistently with its labor obligations under the FTA in its response to civil unrest and national strikes in early 2011. Labor accepted the union group’s submission in June 2011.

The Labor report released in December 2012 recommended consultations under the FTA. “Important components of the government’s response to the unrest that began in February 2011 appear to be inconsistent with Bahrain’s labor commitments under the FTA related to freedom of association and non-discrimination,” it stated (see **WTTL**, June 20, 2011, page 4).

While the report noted that the government of Bahrain, particularly the Minister of Labor, had made “significant efforts to ensure reinstatement of dismissed workers,” it also highlighted “the deterioration in the labor rights environment in Bahrain, marked by restrictions on trade union freedoms and political and sectarian-based discrimination against Shia workers.”

“Ensuring that workers in Bahrain...can exercise their fundamental labor rights is a top priority for the Obama Administration, and we expect that the action we are taking today will produce a collaborative discussion and positive resolution to these important labor issues,” Acting USTR Demetrios Marantis said in a statement announcing the move.

## Appellate Court Gives Deckers the Boot

A boot can be a “slip on” even if it takes two hands to put on, the Court of Appeals for the Federal Circuit (CAFC) ruled May 8 in a split 2-1 ruling upholding a Customs and Border Protection (CBP) classification of Classic Crochet boots imported by Deckers Outdoor Corporation. The decision affirmed a ruling by Court of International Trade (CIT) Judge Gregory Carman, who also upheld the Customs opinion and rejected Deckers’ claim that the product fell under the basket category of footwear.

The CBP ruling imposed a 37.5% *ad valorem* duty on the merchandise rather than the 9% *ad valorem* that Deckers sought. It classified the product under subheading 6404.19.35 of the Harmonized Tariff Schedule of the United States (HTSUS), while Deckers claimed it came under HTSUS 6404.19.90.

“Deckers asserts that because the Classic Crochet boots must be ‘pulled on’ with the hands, they do not qualify as ‘slip-on’ footwear,” CAFC Judge Haldane Mayer noted.

“Deckers’ argument that boots are excluded from the scope of Subheading 19.35 is contravened by the plain language of the statute. Subheading 19.35 is not limited to shoes, but instead covers ‘*footwear* of the slip-on type,’” he wrote (his emphasis). “As Deckers acknowledges, the term ‘footwear’ plainly encompasses both shoes and boots,” he continued. “Deckers’ position is further undermined by *Treasury Decision 93-88*, which specifically provides that the term “slip-on” includes a pull-on boot,” Mayer wrote. In a dissenting opinion, CAFC Judge Timothy Dyk sided with Deckers. “If

Congress had meant for this subheading to cover all such footwear, it could simply have written ‘footwear that is held to the foot without the use of laces or buckles or other fasteners,’ and omitted the words ‘of the slip-on type.’ It did not do so, suggesting that the subheading is more limited, and in particular that the words ‘of the slip-on type’ are limiting,” he wrote. “In sum, the common and commercial meaning of the term ‘footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners’ excludes boots that rise above the ankle and that are not easy to slip on, such as the boots at issue in this appeal,” Dyk asserted.

## **Common Definition of “Technical Data” Recommended**

State’s Defense Trade Advisory Group (DTAG) recommended May 9 that State and Commerce adopt a common – but not word-for-word – definition of technical data and technology for the ITAR and EAR. The DTAG accepted the recommendations of a working group that proposed changing ITAR Section 120.10, but leaving the definition in the EAR unchanged. The key change would add the word “unique” after the word “required” in the ITAR to determine when controls apply to technical data used in the design, development, production, manufacturing, assembly, maintenance, repair and testing of defense items. The proposal would drop “modification” from the current rule.

The revision of the definition to limit it to technical data that is “required and unique” to use for defense items would bring the ITAR closer to the EAR’s limitation of “peculiarly responsible,” members of the working group explained. They said they would not include a definition of required or unique in the rules, but would rely instead on common dictionary definitions. A separate definition “makes life more difficult,” one member said.

Relying on a dictionary definition would create some risk and firms “will have to determine what level of risk they are willing to assume,” he acknowledged. The need for common definitions will increase with the proposed transfers of thousands of parts and components from the U.S. Munitions List (USML) to the Commerce Control List (CCL), working group members said. It will create problems if the definition for the CCL items is different than the one for the ITAR end-use system with which they go. The creation of a common definition for technical data and technology is one of the goals of the export reform effort along with definitions for many other terms in the two regulations.

## **Business Groups Call for More Export Control Reforms**

What have you done for me lately? It’s been three weeks since the Obama administration published the first final rules in its Export Control Reform Initiative (ECR), and a group of defense and tech industry organizations is already asking for more. In a letter to President Obama May 8, the Coalition for Security and Competitiveness (CSC) commended the administration on the “recent publication of major regulations that will translate the large amount of work already done into tangible benefits for exporters.” But wait... the group then outlined ten other “badly needed reforms,” many of which are already on the administration’s list.

The group’s suggestions include: creating an intra-company transfer license; simplifying and recalibrating encryption controls; accelerating implementation of multilateral regime

changes; publishing a final definition of “defense services”; establishing a single entry portal and a single license form; and fundamentally reforming high performance computer (HPC) export controls.

**\* \* \* Briefs \* \* \***

DDTC: Managing director post, held by Robert Kovac until his retirement at end of March, will not be filled. Instead, agency’s three offices will report directly to Deputy Assistant Secretary of State for Defense Trade Controls Beth McCormick, a veteran of State and DTSA, who is highly regarded by industry and congressional committees (see **WTTL**, April 1, page 6).

FCPA: Paul G. Novak, former consultant for Willbros International Inc., subsidiary of Willbros Group Inc., was sentenced May 3 in Houston U.S. District Court to 15 months in prison for violating FCPA by conspiracy to bribe Nigerian government officials and political party officials. He also was ordered to pay \$1 million fine and to serve two years’ supervised release. Sentencing “took into consideration the assistance Novak provided the government in ongoing investigations,” Justice noted. Novak pleaded guilty in November 2009 (see **WTTL**, Nov. 16, 2009, page 4). Two other former Willbros executives were sentenced to prison in January 2010, and company entered into DPA in May 2008, paying \$22 million penalty.

OFAC: American Steamship Owners Mutual Protection and Indemnity Association, Inc. (American Club), nonprofit international marine mutual insurance association of merchant ship owners and charterers in N.Y., agreed May 9 to pay \$348,000 to settle 55 OFAC charges of violating Cuba, Sudan and Iran sanctions. American Club allegedly processed protection and indemnity insurance claims, letters of undertaking/guarantee (LOU) and letters of indemnity as security or countersecurity for LOU involving three sanctioned countries from 2003 to 2006. American Club did not voluntarily self-disclose violations to OFAC.

IRAN: Treasury May 9 sanctioned Sambouk Shipping FZC under EO 13599, targeting government of Iran. Treasury said Sambouk is tied to Dr. Dimitris Cambis who, along with network of front companies, was sanctioned in March 2013 (see **WTTL**, March 18, page 8). Department also imposed sanctions against Iranian Venezuelan Bi-National Bank (IVBB) under EO 13382, which targets proliferators of weapons of mass destruction (WMD) and their supporters, for engaging in financial transactions on behalf of previously sanctioned Export Development Bank of Iran (EDBI). At same time, it also blocked eight tankers with names such as Sunrise, Atlantis and Justice, with ties to National Iranian Tanker Company.

EXPORT ENFORCEMENT: Two Taiwanese men were arrested May 1 and charged in Chicago U.S. District Court with violating restrictions on designated proliferators of weapons of mass destruction. Hsien Tai Tsai, aka Alex Tsai, was arrested in Tallinn, Estonia, while his son, Yueh-Hsun Tsai, aka Gary Tsai, U.S. legal permanent resident from Taiwan, was arrested in Glenview, Ill. Both Tsais were charged with one count of conspiring to defraud U.S., one count of conspiracy to violate IEEPA by evading Treasury restrictions on Alex Tsai and two of his companies, and one count of money laundering. Alex Tsai and two companies -- Global Interface and Trans Merits -- were designated in January 2009 (see **WTTL**, Jan. 19, 2009, page 4). In both cases, previously filed criminal complaints were unsealed following their arrests. Gary Tsai was released on bond May 6. Alex Tsai remains in custody in Estonia pending extradition proceedings. In related case, Treasury May 10 designated Taiwan company Trans Multi Mechanics Co. Ltd. and its CEO and general manager Chang Wen-Fu for their links to Tsai. “Alex Tsai has used Trans Multi Mechanics Co. Ltd. to procure and ship hundreds of thousands of dollars’ worth of equipment to North Korea and to negotiate contracts on behalf of North Korean parties,” Treasury alleged.

FLAT-ROLLED STEEL: In preliminary 5-1 vote May 10, ITC found dumped diffusion-annealed, nickel-plated flat-rolled steel products from Japan may be materially injuring U.S. industry.